

JORIGA ELECTRONICS, INC.

- **SMR operator**

Allocation Issues

- **Joriga believes that the FCC's proposal to auction 200 SMR channels on an MTA basis is impractical and unworkable and, if attempted, would injure the already established SMR industry. (Incorporates its Reply Comments opposing Nextel's original proposal in this proceeding.) (1-2)**

JAMES A. KAY, JR.

- **SMR-trunked and SMR-conventional system operator**

Allocation Issues

- **Kay believes that the FCC's proposal to auction 200 SMR channels on an MTA basis is impractical and unworkable and, if attempted, would injure the already established SMR industry. (Incorporates its Reply Comments opposing Nextel's original proposal in this proceeding.) (1-2)**

KELLER COMMUNICATIONS, INC.

- SMR operator

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but, to allow for two MTA licensees in each market, proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)
- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)
- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

Auction Issues

- Opposes auctioning local SMR channels. (6)

MTA Licensee Rights and Obligations

- MTA licensees should be required to observe a 40/22 dBu co-channel separation, as should all licensees. (4)
- MTA licensees should not be able to construct within the 22 dBu contour of incumbent co-channel licensees and local licensees should be prohibited from locating their sites within the 22 dBu contour of other local licensees. (4-5)

Construction Requirements

- Supports strict enforcement of the one year construction deadline for local SMRs, and the requirement that licensees begin serving customers by the end of the construction period. Also supports strict construction for MTA licensees and license forfeiture for failure to comply. (5)

Incumbent Rights and Obligations

- Opposes mandatory relocation. Relocation should occur only on mutually acceptable terms and conditions. (3-4)
- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (4)

Treatment of General Category Channels and Intercategory Sharing

- Urges the Commission to designate all 230 channels (lower 80 and 150 General Category) for SMR use, arguing that without access to all 230 channels, local licensees will be foreclosed from offering service or expanding. (2, 5)
- These channels would be able to be used by local licensees, existing wide-area systems, or combined to form new wide-area systems, but should be subject to existing rules, with greater co-channel interference protection. They should not be authorized for use throughout an MTA unless actually licensed and constructed at sites in the MTA. (2)
- Urges the Commission not to foreclose local SMRs from the Business and Industrial/Land Transportation channels for expanding their operations. (5-6)

Other Issues

- Urges the Commission to take this opportunity to strengthen its co-channel interference criteria to a strict 40-22 dBu standard and to restrict "short spacing." (3)
- The FCC should presumptively classify all MTA licensees as CMRS. There should be no presumption of CMRS status on the lower 80 or 150 General Category channels. (6)

LAGORIO COMMUNICATIONS

- Analog SMR service provider in Northern California

Allocation Issues

- Nextel's proposal should not be adopted unless Nextel can demonstrate that the public will receive a service so necessary and compelling that it requires frequency swapping; that operators forced to abandon use of their channels will be fully compensated; and that supporters of frequency swapping can demonstrate through concrete financial commitments that they can bear such costs. (6)
- Opposes Nextel's proposal for frequency swapping since no guarantees exist that comparable alternative frequencies will be available -- a one-for-one swap of 800 MHz SMR channels will not work in N. California and the 450-460 MHz channels are not of comparable quality. (6-7)
- Opposes Nextel's proposal since the benefits will accrue only to a handful of entities; the level, reliability, and demand for ESMR has never been verified; and those needing ESMR services can satisfy their needs from cellular or PCS. (8-9)
- Opposes auction-based MTA licensing, since: (1) its service area splits two MTAs, demonstrating that SMR services have not developed over arbitrary markets created by Rand McNally; (2) its future growth would be curtailed, or unnecessarily expensive, if MTAs are used; and (3) MTAs will impose higher costs on subscribers, since carriers will separate along MTA lines, resulting in roaming charges for subscribers. (9-10)

Auction Issues

- Opposes MTA auctions since auctions are premised upon the incorrect theory that auction revenues are a better test of a company's desire to provide service to the public than an operator's past history. (11)
- Auction-based MTA licensing will not promote administrative efficiency, since trying to rein in frequency use in an MTA ex post facto will create huge logistical problems and result in litigation. (12)
- The auction proposal is premature in view of the backlog of SMR applications. (14)

Incumbent Rights and Obligations

- Opposes Nextel's proposal for forced frequency swapping, since the proposal totally fails to consider the costs of performing such a reallocation (including change out of end user equipment, combiners, site leases, intermodulation and engineering studies, subscriber down time, etc). (5-6)
- The Commission must provide adequate protection for co-channel stations in N. California, especially in light of the fact that digital emissions require a greater degree of co-channel protection and, as the Commission has previously recognized, the presence of stations at high peaks in the Los Angeles area requires special consideration. (18-22)
- The Commission should amend Section 90.621 to provide for 105 mile separation between co-channel stations in California north of 35° N. Latitude and west of 118° W. Longitude which have AATs in excess of 2500 feet. (22-23)
- If the Commission adopts its proposed 20 mile standard for the service area to be protected for an existing traditional SMR, it should adopt a 30 mile standard for the protected service area of stations having exclusive use of a channel in N. California. (23)

Other Issues

- The Commission should seriously consider whether its proposals are really designed to serve the public's interest -- Lagorio is an existing successful operator of SMR systems that has an application on file to become an ESMR, but the proposals will seriously impair its business and the businesses of many like Lagorio. (15-16)
- Since ESMR service is likely to be more expensive than SMR service and many ESMR needs can be satisfied by cellular or PCS, the Commission should consider necessary pricing when it examines ESMR demand predictions. (16-17)
- The proposals in the NPRM constitute reverse evolution, since they will relegate many independent providers in a vital market to the status of resellers and sacrifice the public's interest in reliable cost-efficient dispatch service. (17-18)

THOMAS LUCZAK

- Operator of a 5-channel trunked SMR in Ventura, California

Allocation Issues

- The existing SMR allocation and licensing scheme are well suited to allow a myriad of small operators, like Luczak, to meet the demand of dispatch users in an efficient manner. (1-3)
- The FCC's proposals ignore the rights of existing licensees in favor of speculative gains through wide-area systems; however, no evidence exists that these systems are possible, let alone can or will be successful. (4)
- The FCC's proposed changes to the SMR rules are entirely tipped in favor of ESMRs against the majority of SMR users; the Commission should instead require those in the minority to articulate and justify why radical changes are necessary or desirable. (5)

Incumbent Rights and Obligations

- Opposes forced frequency swapping, since: (1) it will benefit a minority at the expense of the majority of SMR users; (2) the imbalance in resources between traditional SMRs and ESMR operators will result in forced frequency swaps that do not meet traditional operator's needs; (3) the FCC has failed to recognize the serious problems entailed with frequency swapping, including authorization modification, changeout or modification of equipment, down time, etc; (4) no ESMR operators have stated a willingness or shown their ability to finance a frequency swap scheme; and (5) frequency swapping will uproot the licensees that have made the SMR service successful and stifle the potential growth of these systems. (6-8)

MADERA RADIO DISPATCH, INC.

- SMR operator and radio common carrier licensee

Allocation Issues

- Madera believes that the FCC's proposal to auction 200 SMR channels on an MTA basis is impractical and unworkable and, if attempted, would injure the already established SMR industry. (Incorporates its Reply Comments opposing Nextel's original proposal in this proceeding.) (1-2)

MCCAW CELLULAR COMMUNICATIONS, INC.

- Cellular service provider

MTA Licensee Rights and Obligations

- If SMR licensees can avail themselves of the more flexible operational and technical rules characteristic of CMRS, they must also assume the regulatory responsibilities of CMRS providers. SMR providers are common carriers that must offer their service at just and reasonable rates, without any unjust discrimination. Other requirements made applicable to CMRS providers, including equal access and any interconnection obligations, should be consistently applied to SMRs. (3-4)
- Having delayed the burdens of becoming CMRS providers, SMR licensees should not enjoy the benefits of that status. Accordingly, the grant of operational flexibility to wide-area SMR licensees should not take effect until the earlier of August 10, 1966, the end of the three-year transition period, or until a SMR licensee agrees to be treated as a CMRS provider for all purposes. (5-6)
- The Commission's proposal to afford operational flexibility to construct and modify facilities should encompass the notice and record-keeping requirements that apply to cellular carriers. (7)
- Because the Commission proposes to allow SMR licensees to self-coordinate system modifications, a notification requirement is necessary to prevent the construction of facilities that could cause interference at their service area boundaries. (7-8)
- The technical record-keeping requirements would be analogous to the Commission's requirement for cellular carriers. Although licensees will be able to make modifications without prior approval, the technical and administrative information should be available to the Commission. (8)

MORRIS COMMUNICATIONS, INC.

- **SMR operator**

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but opposes one bidder being able to obtain four blocks, and recommends that one licensee should have no more than two 2.5 MHz blocks to prevent "warehousing" and avoid slow build-out by large companies. (2)

Auction Issues

- Proposes use of multiple round auctions for local area and MTA licenses, limited to five rounds, supports a bidding credit for minority and female controlled entities, and an up-front payment reduction for minority and female controlled entities and small businesses. Supports treating rural telephone companies as regular applicants, unless they are also a small business. (4-5)

MTA Licensee Rights and Obligations

- MTA licensees should be required to observe a 40/22 dBu co-channel separation, as should all licensees. (3)
- MTA licensees should not be able to construct within the 22 dBu contour of incumbent co-channel licensees and local licensees should be prohibited from locating their sites within the 22 dBu contour of other local licensees. (3)

Construction Requirements

- Supports strict enforcement of the one year construction deadline for local SMRs, and the requirement that licensees begin serving customers by the end of the construction period. Also supports strict construction for MTA licensees and license forfeiture for failure to comply. (3-4)

Incumbent Rights and Obligations

- Opposes mandatory relocation. Relocation should occur only on mutually acceptable terms and conditions. (2-3)

- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (3)

Treatment of General Category Channels and Intercategory Sharing

- Urges the Commission to designate all 230 channels (lower 80 and 150 General Category) for SMR use, arguing that without access to all 230 channels, local licensees will be foreclosed from offering service or expanding. (4)
- Urges the Commission not to foreclose local SMRs from the Business and Industrial/Land Transportation channels for expanding their operations. (5-6)

MOTOROLA, INC.

- **SMR equipment manufacturer and SMR system operator and manager**

Allocation Issues

- **Motorola generally supports the FCC's proposals since 10 MHz allocations are needed to allow wide-area SMRs to compete with PCS and cellular licensees. Although Motorola's MIRS technology does not require contiguous channels, allowing access to contiguous channels will accommodate many technology options, including AMPS, CDMA, and GSM. (4-6)**
- **Also supports a uniform nationwide spectrum allocation. This is necessary to compete with other services providing anywhere, anytime coverage. (7-8)**
- **MTA-wide licensing for the top 200 channels is preferable because: MTAs correspond with the consolidation in cellular and will allow more effective competition; MTAs are based upon the natural flow of commerce and will facilitate roaming; and MTAs will facilitate the coordination and negotiation process and allow economies of scope and scale. (10-11)**
- **Opposes the use of smaller areas, since they would not be able to take full advantage of ESMR capabilities, may not support the customer volumes needed to finance ESMRs, and will result in coordination problems. (11-12)**
- **Supports the use of site-specific licensing for channels below 401-600, since coordination and engineering difficulties would occur if wider area licensing was used. (12-13)**

MTA Licensee Rights and Obligations

- **Concurs with FCC proposals regarding co-channel protection rules. (20)**
- **Supports retaining the existing emission mask rules, if interpreted to apply only to the outer channels of an MTA block. (21)**

Construction Requirements

- Supports establishment of reasonable time limitations and coverage standards for system construction. (13)
- Urges the FCC not to permit further extensions of construction periods applicable to existing wide-area systems, except to conform to MTA licensee system-wide build out requirements. (14)

Incumbent Rights and Obligations

- Motorola agrees that the improvements in wide-area SMRs should not be at the expense of incumbents, and believes that: the costs and burdens of relocating incumbents should be borne by new licensees; retuning must not be unreasonably imposed; retuned incumbents must be assured of comparable in kind spectrum homes; retuned incumbents should be afforded regulatory advantages and priorities to ensure expanded opportunities for their operations; and retuned licensees should have assurances that no disruptions will occur. (8-9)
- Specifically:
 - Incumbents should not bear the costs associated with retuning, including equipment, regulatory, financial, zoning, engineering, site, and other direct or indirect costs. (14-15)
 - Incumbents, once retuned, should be free from further disruptions and should be guaranteed that their new spectrum home will not be reallocated to other services or auctioned to other entities. (15)
 - Incumbents should be protected from material disruptions during the retuning process, including replacement of SMR infrastructure and end user equipment that cannot be retuned, providing alternative services for customers during the cut-over period without interruption, assuring traditional SMRs that wide-area providers will not "steal" customers during retuning, and ensuring new systems have comparable coverage and performance. (15-16)
 - Incumbents should be guaranteed access to sufficient spectrum to continue their operations and retain unconditional access to the "lower 80" channels, the original 150 conventional channels at 800 MHz, and intercategory shared access channels. (16-17)

- To promote voluntary retuning, the FCC should allow incumbents tax certificates, provide guarantees against further retuning, and allow flexibility to aggregate spectrum at retuned frequencies to create wide-area systems. (19)
- The rights accorded to incumbents should be freely transferrable to maximize flexibility. (19)

Treatment of General Category Channels and Intercategory Sharing

- Believes it is premature to cut off access to accommodate retuned SMRs, and recommends allowing them access to General Category channels and intercategory shared channels. (17-18)

NASHTEL, L.L.C.

- SMR service provider

Treatment of General Category Channels and Intercategory Sharing

- Supports the FCC's proposal that existing SMR systems on the General Category channels should be allowed to continue their operations. (4)
- Licensees of conventional SMR systems should receive exclusive channel use during their entire initial five year license period. (5,6)
- Operators on the General Category channels should be allowed to trunk their operations as the market demands rather than being required to first load to 70 mobiles per channel. (8)

Other Issues

- The current channel loading standard of 70 mobiles per channel is inaccurate. The FCC should instead require operators to demonstrate that their grade of service approximates .02 erlang C during the busy hour. (6)

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

- Association representing small and rural local exchange carriers

Allocation Issues

- Using MTAs may adversely affect rural telephone companies seeking to provide SMR service in rural areas. (3)

Auction Issues

- Auctions do not appear to be appropriate for SMRs in light of the already existing licensed service. (4)
- If auctions are used, the FCC should adopt a partitioning mechanism similar to that used in PCS for rural telcos. (4)
- Any small business preference should apply to rural telcos, if appropriate. (6)

Other Issues

- The FCC must remove the provision prohibiting wireline companies from holding SMR licenses prior to adopting a new SMR regulatory structure. (2)

NEXTEL COMMUNICATIONS, INC.

- Licensee of 800 MHz and 900 MHz SMR systems

Allocation Issues

- With the modifications proposed in Nextel's comments, the Commission's proposals will create the regulatory symmetry necessary for wide-area SMRs to compete effectively with cellular and PCS and will enhance opportunities for rural SMR operators. (21)
- Supports the FCC's tentative conclusion that, because border areas are contained in MTA's that include non-border areas, it is impossible to create different licensing schemes, and urges the Commission to encourage and assist cross-border channel sharing arrangements subject to government approval. (51-52)
- Argues that auctioning the upper 200 channels (10 MHz) in a single block offers the best "parity" with cellular and PCS, even though it still places wide-area SMRs at a significant spectrum disadvantage. (40)
- Agrees with the Commission that there should not be limits on an applicant obtaining all four 2.5 MHz blocks, but disagrees with the conclusion that licensing on four 50-channel blocks is in the public interest. (40-41 and n.88, 56)
- Contends that wide-area SMRs must have at least 10 MHz of contiguous spectrum to employ advanced technologies. (42)
- Argues that in addition to placing SMRs at a disadvantage vis-a-vis cellular and PCS, licensing MTA SMRs in four 2.5 MHz blocks will encourage speculation and greenmail. (42-43)
- Supports a land mobile radio 800 MHz allocation with four categories:
 - (1) the upper 200 channels for contiguous-block, broadband SMRs licensed through competitive bidding on an MTA basis;
 - (2) the lower 80, Business 50, and General Category 150 channels for the local SMR service;
 - (3) the 50 Industrial/Land Transportation category channels primarily for these private systems and retuning of eligibles from

the upper 200 channels, with the elimination of future SMR eligibility for intercategory sharing of these channels;

(4) the 70 800 MHz public safety channels exclusively for public safety eligibles;

(5) in non-congested areas, until January 1, 2000, the 150 General Category channels and 50 Business channels for exclusive SMR licensing (non-MTA). (25-27 and n.58)

Auction Issues

- States that applicants not in compliance with the Section 310(b) foreign officer limitations are not eligible to hold an MTA license, and urges the Commission to adopt other eligibility limits aimed at thwarting speculation and anti-competitive activities. (53)
- Argues that, for purposes of designated entity participation, the mobile services industry should be viewed on the basis of the entire CMRS marketplace, and that the PCS designated entity provisions have opened avenues for designated entity participation. (55)
- Urges the Commission to increase the upfront payment by basing it on bidding for all 200 channels in the MTA, even if the bidder intends to bid on only one 50 channel block. (57)
- Supports stricter penalties for bid withdrawal, such as forfeiture of the upfront payment, and added penalties to punish gross misconduct and abuse of the process. (58-59)

MTA Licensee Rights and Obligations

- Supports proposal for MTA-to-MTA co-channel interference protection, whereby the field strength at an MTA boundary would be limited to 22 dBu, and coordination and concurrence from neighboring licensees would be required for higher field strength. (47)
- Agrees with the proposal regarding the co-channel protection that MTA licensees must provide local incumbents that cannot be migrated or retuned, which would require separation by 70-miles or the "short spacing" distances specified in the 40/22 dBu table. Suggests, however, modifying Section 90.621(b) to permit short-spacing without a waiver by

an MTA licensee where the 22 dBu contour of the proposed station will not overlap the 40 dBu contour of the existing station. (47-48)

Construction Requirements

- To resolve inadequacies of a bare population coverage standard, recommends modifying the proposed interim coverage requirements to require MTA licensees to demonstrate authority to encompass a per channel average of 1/3 of the MTA population after three years and 2/3 the MTA population after five years. (46 and Attachment B)

Incumbent Rights and Obligations

- Argues that the Commission has the authority to retune or relocate licensees in the public interest, and claims that the agency has done so in the past to promote efficient spectrum uses. (27-29)
- Agrees with the Commission that negotiating, frequency swaps, mergers and purchases will likely be used by MTA licensees to clear the MTA block, but submits that mandatory retuning will also be required to secure contiguous spectrum. (31)
- Argues that the Commission has a duty to intervene where "reasonable" relocation inducements fail in support of its duty to promote the introduction of spectrally efficient technologies, and claims that purely voluntary relocation will encourage "greenmail" and delay regulatory symmetry. (32)
- In congested areas, supports a 1-year period commencing upon issuance of each MTA license to complete the migration of local SMRs in the MTA from the block. During the first 6 months, the MTA licensee could negotiate, and incumbents that voluntarily agree to migrate within the first 6 months would receive inducement benefits. (32-33)
- During the final 6 months, incumbents would be subject to required retuning. In either case, however, no incumbent would have to migrate until an MTA licensee makes comparable alternative frequencies available in the lower 80 SMR, 50 Business, or 150 General Category channel blocks. (33-34)
- Pending completion of the migration period, no additional licenses could be granted on the 80 SMR, 50 Business, or 150 General Category

channels, except for changes for existing licensees related to operational contingencies (natural disaster) or modifications within the existing licensee's 40 dBu contour. (34, 38 and n.84).

- All retuning costs would be borne by the MTA licensee, consistent with the Commission's requirements for relocating 2 GHz microwave licensees to clear spectrum for PCS. (34)
- Licensees on the SMR block channels would be free to implement digital technologies, aggregate channels, or integrate local systems. (35)
- In non-congested areas, retuning would also be accomplished on a 6-month voluntary and 6-month mandatory basis. (35-36)
- Existing licensees on channels in the new SMR blocks would have the one year retuning period to construct their systems and place them in operation. Unconstructed authorizations would be recovered by the Commission. Upon conclusion of retuning, the MTA licensee would surrender any remaining authorizations it holds for the new SMR block channels, limiting it to 280 channels in non-congested areas of the MTA for a 5-year period regardless of outstanding extended implementation authorizations. (36)
- All new SMR block channels recovered from the MTA licensee would be assigned to the local retuned incumbents in the MTA on a pro rata basis, depending on the number of frequencies retuned, and existing licensees should be given a preference for licensing on any other recovered channels over new applicants. (36)
- This gives rural SMRs a block of 150 contiguous channels and 50 additional channels, assures a high power to high power environment, and eliminates the incidence of local SMRS surrounded by multiple channel unconstructed systems with extended implementation. (37)
- MTA licensees would be limited to the 280 current SMR category channels only in non-congested areas of the MTA; they would be allowed to clear the upper 200 channels throughout the MTA and, in congested areas, would retain channels remaining after retuning in the MTA block. (37)
- Supports allowing incumbent local SMRs that cannot be migrated to modify their facilities as long as the modifications do not expand their 40 dBu contour. (49)

- Similarly, if a licensed incumbent wide-area system does not obtain the MTA license and cannot be retuned, it should be allowed to modify its stations and construct new stations as long as the 40 dBu contours and footprint are not extended. (49)

Other Issues

- To increase flexibility, urges the Commission to retain existing emission mask for systems using 25 kHz channels, and to adopt its proposed emission mask requirements for systems using multiple 25 kHz channels in contiguous blocks. (50-51)

NIELSON COMMUNICATIONS, INC.

- **SMR operator**

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but, to allow for two MTA licensees in each market, proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)
- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)
- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

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NODAK COMMUNICATIONS

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